

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NORTHSTAR ENERGY LLC,)	
)	
Plaintiff,)	Case No. 1:13-cv-200
)	
v.)	Honorable Paul L. Maloney
)	
ENCANA CORPORATION, et al.,)	
)	
Defendants.)	
)	

**ORDER DENYING MOTION TO COMPEL
AND GRANTING MOTION TO STAY DISCOVERY**

This is an antitrust action brought pursuant to section 4 of the Clayton Act, 15 U.S.C.

§ 15. Plaintiff, an owner of mineral interests, alleges that defendants Encana Oil & Gas USA, Inc. and Chesapeake Energy Corporation, which are large scale purchasers of mineral rights, engaged in a horizontal conspiracy to depress prices for oil and gas leases in the State of Michigan, in violation of section 1 of the Sherman Act. Defendant O.I.L. Niagaran, LLC is alleged to have engaged in the conspiracy as purchasing agent for Chesapeake. In response to the complaint, all defendants have moved to dismiss for failure to state a claim under Fed. R. Civ. P. 12(b)(6). Pending resolution of these dispositive motions, the court has not conducted a Rule 16 scheduling conference.

Presently pending before the court is plaintiff's motion to compel defendants to confer under Rule 26(f) for purposes of formulating a discovery plan and a cross-motion of defendant O.I.L. Niagaran to stay discovery. Plaintiff wishes to pursue discovery during the pendency of the

dispositive motions, while defendants hope to avoid discovery altogether on the strength of their pending dispositive motions. Chief Judge Paul Maloney has referred both defendants' motion to compel a Rule 26(f) conference and O.I.L. Niagaran's cross-motion to stay discovery to me pursuant to 28 U.S.C. § 636(b)(1)(A).

The present dispute frames an issue of case management, a matter committed to the discretion of the district court. Reasonable judges take differing views on the desirability of pursuing discovery when Rule 12(b)(6) motions are pending. On the one hand, allowing discovery may cause the parties to suffer a large waste of time and expense, if the motions are ultimately granted. On the other hand, dilatory motions to dismiss may delay justice and cause the loss of discoverable evidence. Chief Judge Maloney's case management philosophy favors resolution of motions directed to the pleadings before the parties embark on expensive discovery efforts. Plaintiff has not advanced any substantial reason to conclude that this general philosophy would work an injustice or hardship in the present case. Discovery will therefore be stayed, pending further order of the court. Therefore:

IT IS ORDERED that plaintiff's motion to compel defendants to confer under Rule 26(f) (docket # 32) is hereby DENIED, and that the cross-motion to stay discovery by defendant O.I.L. Niagaran (docket # 34) is GRANTED. Any party may seek relief from this order upon a showing of good cause or changed circumstances.

DONE AND ORDERED this 4th day of September, 2013.

/s/ Joseph G. Scoville
United States Magistrate Judge